

**REMARKS**

Claims 1-32 and 51-61 are pending in this application of which claims 4-6, 9-17, 21-24, 27 and 31-32 are withdrawn. By this Amendment, claims 1 and 3 are amended, claims 33-50 are canceled, and new claims 51-61 are added.

**I. Claim Rejections**

The Office Action rejects claims 1-3, 7, 8, 18, 19, 25, 26 and 28-30 under 35 U.S.C. §103(a) over U.S. Patent No. 5,343,490 to McCall in view of U.S. Patent No. 6,330,265 to Kinoshita and rejects claim 20 under 35 U.S.C. §103(a) over McCall in view of Kinoshita and further in view of U.S. Patent No. 6,219,369 to Portnoi. Applicants traverse the rejections.

By this Amendment, claim 1 is amended to recite that the grating is buried. Support for this exists, for example, in Figs. 3 and 6.

McCall fails to disclose that the grooves 84 are buried. In the discussion of Fig. 8 (col. 11, lines 20-32), McCall discloses a disk 80 having grooves 84 on the upper surface. McCall fails to disclose that grooves 84 are buried in any way. In fact, McCall discloses, in Figs. 10 and 11, embodiments that include electrodes as additional structure, which are located in the center area of the disk leaving the peripheral region indicated as having no extra layers.

The Office Action relies on Kinoshita only to disclose the use of a triangular cross-sectional area for a hologram. Thus, the Office Action's asserted combination of McCall and Kinoshita does not establish a *prima facie* rejection regarding modifying McCall to have additional material above the grooves 84. Thus, the claims are patentable over McCall in view of Kinoshita.

Further, by this Amendment, claim 3 is amended to remove the alternative feature of a triangular cross-sectional area for the grating region. Because both McCall and Kinoshita fail

to disclose any of "a trapezoidal shape, a rectangular shape, and a sinusoidal shape," the claims are patentable over the applied references.

Regarding new claims 51-61, these claims depend from claim 1 and additionally recite the features shown in Fig. 6. Because the applied references are silent as to the layers recited in claims 51-61, the claims are patentable over the applied references.

For the foregoing reasons, Applicants respectfully request withdrawal of the rejections.

## **II. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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